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An Act To Designate Certain Rules Proposed by the Board of Pesticides Control as Major Substantive Rules

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the rule-making authority of the Department of Agriculture, Food and Rural Resources, Board of Pesticides Control is essential to ensuring the benefits derived from proper use of pesticides while safeguarding public health; and

Whereas, designation of certain rules as major substantive rules enhances that assurance; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 7 MRSA §604, sub-§25-A is enacted to read:

25-A. Plant-incorporated protectant. "Plant-incorporated protectant" means a pesticidal substance that is produced and used in a living plant through genetic engineering and the genetic material necessary for the production of the pesticidal substance.

Sec. 2. 7 MRSA §610, sub-§6, as enacted by PL 2007, c. 145, §1, is amended to read:

6. Major substantive rules. Rules proposed for adoption by the board after July 1, 2007 that pertain to topics specified in paragraphs A to E are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. Rules in effect on July 1, 2007 that pertain to topics specified in paragraphs A to E continue in effect, except that proposed amendments to those rules are major substantive rules and must be reviewed and approved prior to final adoption in accordance with Title 5, section 8072. Rules proposed for adoption by the board after March 1, 2008 that pertain to topics specified in paragraphs F and G are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. Rules in effect on March 1, 2008 that pertain to topics specified in paragraph G continue in effect, except that proposed amendments to those rules are major substantive rules and must be reviewed and approved prior to final adoption in accordance with Title 5, section 8072. Topics governed by this subsection are:

- A. Drift from outside spraying;
- B. Notification requirements for outside spraying;
- C. Pesticides applications in occupied buildings;
- D. A notification registry for indoor applications of pesticides; and

E. Buffers from shorelines for broadcast applications of pesticides.;

F. Use of organophosphate pesticides adjacent to occupied areas; and

G. Distribution and use of plant-incorporated protectants.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective February 28, 2008.